

COURT OF APPEALS
DIVISION TWO
OF THE STATE OF WASHINGTON

FILED
COURT OF APPEALS
DIVISION II

2022 MAY -2 AM 10:17

STATE OF WASHINGTON

Respondent,

v.

Jacob Baekman
(your name)

Appellant.

No.

56411-4-11 JIT

DEPUTY

STATEMENT OF ADDITIONAL
GROUND FOR REVIEW

I, Jacob Baekman, have received and reviewed the opening brief prepared by my attorney. Summarized below are the additional grounds for review that are not addressed in that brief. I understand the Court will review this Statement of Additional Grounds for Review when my appeal is considered on the merits.

Additional Ground 1

letter included

Additional Ground 2

If there are additional grounds, a brief summary is attached to this statement.

Date:

4-27-22

Signature:

Jacob Baekman

My Statement of Additional Grounds

Case # 56411-4-11

OK So I was originally sentenced with 12 points, my original offender score from 2014 is included, as you see in the record for my offender score # 10 Date 08-24-94 That charge has been a VUCSA, Violation of Controlled Substance Act, and has been counted as a felony point on all previous cases and has enhanced all my previous standard ranges on all past offenses causing me to serve more time on several sentences than I should have. Recently I challenged that point and upon investigation the charge was actually a misdemeanor, and never should have ever been included in past or current offender score. My public defender allotted to the court that the charge needed to be changed and allowed it to be changed without having any facts or findings to go on. He broke the law by changing the charge from VUCSA to possession with intent to deliver. The court also tried to change my 97 case as you can see.

in my offender score that I included copy's
That in one copy the date 7-3-97 # 6 is wrote
POSS. Cont. Subst Where in Judgement and Sentence
from 2014 it was Just a possession, in my
offender score the Court in NOV 2021 Had
Changed that charge to possession with intent and
When I argued that; they drew a line thru the
charge, But you can see that Changing a charge
from one labeling charge to Another Has taken
Place, not once But Twice, Breaking Plea contracts
and is illegle. and I went from 12 points
to 9 my public defender allowing illegle actions
and Took part in my prosecution. At 9 points
They kept me off the Scale, as you can see
that the recent offender score is 9 I still
Have the charge To Be removed Putting me
a 8 points, Since I've served alot more time
on past sentences, Because of the Error of a
Misdemeanor Being Counted as a felony for so
many past sentences 2 as a Juvenile, One
Previous as an adult

I Ask that ~~this~~ court take all this Evidence included and Recognize that I have Been at least taken Advantage of By Clallam County system and Rule in my favor and give me the correct calculation of 8 points. an ~~resenten~~ resentence me to 8 points. I Dont feel like Ive ever Been given Effective assistance of Counsel Even with my Appellet Attorney. also There is nothing in the record in my offender score for 10 years from 95- 2005 in my New Jand sentence From 2021 they wanted that 97 Case to stay thats why they Charged the charge so it wouldnt Show a gap of 10 years. there is nothing on Record in my 2.2 Criminal History there for Because there is in this Record to show in the 10 year period I Also Belive my Juvenile points should wash. The court is supposed to go By the record Not whats outside.

Also my charge from 1993 was a possession of a prescription pills, it was just a possession there was no sale or delivery I pled guilty because the public defender said I should to avoid more time. as I believe it has merit to be investigated because the VUESA was an error as well and was a misdemeanor. I believe that by their calculation its 8 points by my perspective it should be less please resentence me to 8 points As I have served 84 of the 96 months And that would put me at Release. I have a job waiting and wish to be done and move on with my life.

Sorry about the time as I've just recovered from Covid 19 for the second time in prison. Also the Arson 2 was an Abandoned House uninhabited where is the violence in that for it to be 2 points, past pleas have it as 1 point.

* DV: Domestic Violence was pled and proved.

☐ Additional current convictions listed under different cause numbers used in calculating the offender score are attached in Appendix 2.1b.

2.2 Criminal History (RCW 9.94A.525):

Crime	Date of Crime	Date of Sentence	Sentencing Court (County & State)	A or I adult, juvenile	Type of Crime	DV* Yes
1 Malicious Mischief 1	11-04-05	8-20-07	Clallam, WA	A	Fel B	
2 Unlawful Poss. Firearm 1	9-23-05	11-21-05	Clallam, WA	A	Fel B	
3 Robbery 1	9-23-05	11-21-05	Clallam, WA	A	Fel A	
4 PWID/Delv/MFG	7-3-97	8-8-97	Clallam, WA	A	Fel C	
7 Residential Burglary	7-26-95	8-16-95	Clallam, WA	J	Fel B	
8 Arson 2	11-04-94	12-28-94	Clallam, WA	J	Fel B	
9 Burglary 2	11-04-94	12-28-94	Clallam, WA	J	Fel B	
10 PWID/Delv/MFG	8-24-94	9-26-94	Clallam, WA	J	Fel C	
11 Del/Poss with intent to sell Legend Drug	4-12-93	4-13-93	Clallam, WA 93-8-00051-5	J	Fel C	
12 Forgery	12-20-90	3-06-91	Clallam, WA 90-8-00155-0	J	Fel C	

* DV: Domestic Violence was pled and proved.

☐ Additional criminal history is attached in Appendix 2.2.

☒ The defendant committed a current offense while on community placement/community custody (adds one point to score). RCW 9.94A.525

☐ The prior convictions listed as number(s) _____, above, or in Appendix 2.2, are one offense for purposes of determining the offender score. RCW 9.94A.525

☐ The prior convictions listed as number(s) _____, above, or in Appendix 2.2, are not counted as points but as enhancements pursuant to RCW 46.61.520.

2.3 Sentencing Data:

Count	Offender Score	Seriousness level	Standard range (not including enhancements)	Plus enhancements*	Total standard range (including enhancements)	Maximum term
1	9	IV	53-70	63-84 mos	63-84	10 years
2	9	III	43-57	62-81 51-60	51-60	5 years
TOTAL ENHANCEMENTS to be served consecutively (RCW 9.94A.310(3)(e) and (4)(e))				months		

* (F) Firearm, (D) Other deadly weapons, (V) VUCSA in a protected zone, (RPh) Robbery of a pharmacy, (VH) Veh. Hom, see RCW 46.61.520, (JP) Juvenile present, (CSG) criminal street gang involving minor,

FELONY JUDGMENT AND SENTENCE (FJS)
(Prison) (Nonsex Offender) (RCW 9.94A.500, .505)
(WPF CR 84.0400 (7/2013)) Page 3 of 14

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(AE) endangerment while attempting to elude, (ALF) assault law enforcement with firearm, RCW 9.94A.533(12), (P16) Passenger(s) under age 16.

☐ Additional current offense sentencing data is attached in Appendix 2.3

For violent offenses, most serious offenses, or armed offenders, recommended **sentencing agreements or plea agreements** are ☐ attached ☐ as follows: _____

2.4 ☐ Exceptional Sentence. The court finds substantial and compelling reasons that justify an exceptional sentence:

☐ below the standard range for Count(s) _____.

☒ above the standard range for Count(s) I.

☐ The defendant and state stipulate that justice is best served by imposition of the exceptional sentence above the standard range and the court finds the exceptional sentence furthers and is consistent with the interests of justice and the purposes of the sentencing reform act.

☒ Aggravating factors were ☐ stipulated by the defendant, ☐ found by the court after the defendant waived jury trial, ☒ found by jury, by special interrogatory

☐ within the standard range for Count(s) _____, but served consecutively to Count(s) _____.

Findings of fact and conclusions of law are attached in Appendix 2.4. ☒ Jury's special interrogatory is attached. The Prosecuting Attorney ☐ did ☐ did not recommend a similar sentence. *- from original sentencing.*

2.5 Legal Financial Obligations/Restitution. The court has considered the total amount owing, the defendant's present and future ability to pay legal financial obligations, including the defendant's financial resources and the likelihood that the defendant's status will change, (RCW 10.01.160). The court makes the following specific findings: *Defendant is indigent.*

☐ The following extraordinary circumstances exist that make restitution inappropriate (RCW 9.94A.753): _____

☐ The defendant has the present means to pay costs of incarceration. RCW 9.94A.760.

☐ _____ (name of agency)'s costs for its emergency response are reasonable. RCW 38.52.430 (effective August 1, 2012).

2.6 ☐ Felony Firearm Offender Registration. The defendant committed a felony firearm offense as defined in RCW 9.41.010.

☐ The court considered the following factors:

☐ the defendant's criminal history.

☐ whether the defendant has previously been found not guilty by reason of insanity of any offense in this state or elsewhere.

☐ evidence of the defendant's propensity for violence that would likely endanger persons.

☐ other: _____

☐ The court decided the defendant ☐ should ☐ should not register as a felony firearm offender.

III. JUDGMENT

3.1 The defendant is **guilty** of the Counts and Charges listed in Paragraph 2.1 and Appendix 2.1.

3.2 ☐ The court **dismisses** Counts _____ in the charging document.

FELONY JUDGMENT AND SENTENCE (FJS)
(Prison) (Nonsex Offender) (RCW 9.94A.500, .505)
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1	Malicious Mischief 1	11-04-05	8-20-07	Clallam, WA	A	NV	
2	Unlawful Poss. Firearm 1	9-23-05	11-21-05	Clallam, WA	A	NV	
3	Robbery 1	9-23-05	11-21-05	Clallam, WA	A	NV	
4	Poss. Cont. Subst.	7-13-05	8-20-07	Clallam, WA	A	NV	
5	Poss. Cont. Subst.	4-25-05	7-05-05	Clallam, WA	A	NV	
6	Poss. Cont. Subst.	7-03-97	8-08-97	Clallam, WA	A	NV	
7	Residential Burglary	7-26-95	8-16-95	Clallam, WA	J	NV	
8	Arson 2	11-04-94	12-28-94	Clallam, WA	J	NV	
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12	Forgery	12-20-90	3-06-91	Clallam, WA 90-8-00155-0	J	NV	

* DV: Domestic Violence was pled and proved.

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☒ The defendant committed a current offense while on community placement/community custody (adds one point to score). RCW 9.94A.525

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☐ The prior convictions listed as number(s) _____, above, or in Appendix 2.2, are not counted as points but as enhancements pursuant to RCW 46.61.520.

2.3 Sentencing Data:

Count	Offender Score	Seriousness level	Standard range (not including enhancements)	Plus enhance-ments*	Total standard range (including enhancements)	Maximum term
1	12	1	12+-24 mo		12+-24 mo	5 years

TOTAL ENHANCEMENTS to be served consecutively (RCW 9.94A.310(3)(e) and (4)(e)) _____ months

* (F) Firearm, (D) Other deadly weapons, (V) VUCSA in a protected zone, (RPh) Robbery of a pharmacy, (VH) Veh. Hnm, see RCW 46.61.520, (JP) Juvenile present, (CSG) criminal street gang involving minor, (AE) endangerment while attempting to elude, (ALF) assault law enforcement with Firearm, RCW 9.94A.533(12), (P16) Passenger(s) under age 16.

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2.4 ☐ **Exceptional Sentence.** The court finds substantial and compelling reasons that justify an exceptional sentence:

☐ below the standard range for Count(s) _____

☐ above the standard range for Count(s) _____

☐ The defendant and state stipulate that justice is best served by imposition of the exceptional sentence above the standard range and the court finds the exceptional sentence furthers and is consistent with the interests of justice and the purposes of the sentencing reform act.

☐ Aggravating factors were ☐ stipulated by the defendant, ☐ found by the court after the defendant waived jury trial, ☐ found by jury, by special interrogatory

☐ within the standard range for Count(s) _____, but served consecutively to Count(s) _____

Findings of fact and conclusions of law are attached in Appendix 2.4. ☐ Jury's special interrogatory is attached. The Prosecuting Attorney ☐ did ☐ did not recommend a similar sentence.

2.5 **Legal Financial Obligations/Restitution.** The court has considered the total amount owing, the defendant's present and future ability to pay legal financial obligations, including the defendant's financial resources and the likelihood that the defendant's status will change. (RCW 10.01.160). The court makes the following specific findings:

☐ The following extraordinary circumstances exist that make restitution inappropriate (RCW 9.94A.753): _____

☐ The defendant has the present means to pay costs of incarceration. RCW 9.94A.760.

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